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Attorneys for Defendants

THE COCA-COLA COMPANY

and ENERGY BRANDS INC. (d/b/a GLACEAU)

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

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BATSHEVA ACKERMAN, RUSLAN	:	Case No. 09-cv-0395-CPS-RML
ANTONOV, JAMES KOH and JERRAD	:	
PELKEY, individually and on behalf of those	:	DEFENDANTS' NOTICE OF
similarly situated,	:	MOTION AND MEMORANDUM OF
	:	LAW IN SUPPORT OF THEIR
Plaintiffs,	:	MOTION TO DISMISS
vs.	:	
	:	Date: August 19, 2009
THE COCA-COLA COMPANY	:	Time: 4:30 p.m.
and ENERGY BRANDS INC.	:	Dept.: Courtroom 6A S
	:	Judge: Judge Charles P. Sifton
Defendants.	:	

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TO THE UNITED STATES DISTRICT COURT AND ALL PARTIES OF
RECORD:

PLEASE TAKE NOTICE that on June 22, 2009, Defendants The Coca-Cola Company and Energy Brands Inc (d/b/a Glaceau) will make a motion to dismiss Plaintiffs' First Amended Class Action Complaint. The motion will be heard on August 19, 2009, at 4:30 p.m., in Courtroom 6A S, located at 225 Cadman Plaza East, Brooklyn, New York 11201, in the United States District Court for the Eastern District of New York, before the Honorable Charles P. Sifton. The motion will be based upon the points and authorities in support of Defendants' Memorandum of Law submitted herewith and will seek the relief requested below.

STATEMENT OF RELIEF REQUESTED

Defendants seek an order dismissing Plaintiffs' claims in their entirety because Plaintiffs' claims are barred by federal preemption and in addition, Plaintiffs' claims fail to state a claim under Fed. R. Civ. P. 8 and/or fail to plead with the requisite particularity required under Fed. R. Civ. P. 9(b).

Dated: June 22, 2009

By: /s/ James R. Eiszner

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CERTIFICATE OF SERVICE

I hereby certify that on June 22, 2009, the foregoing document was filed with the Clerk of the Court and served in accordance with the Federal Rules of Civil Procedure, and/or the Eastern District's Local Rules, and/or the Eastern District's Rules on Electronic Service upon the following parties and participants:

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